

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHARLES N. BENNER, on behalf of himself  
and all others similarly situated,

Plaintiff,

v.

BANK OF AMERICA, N.A., et al.,

Defendants.

CIVIL ACTION  
NO. 11-6574

**ORDER**

AND NOW, this 7th day of January 2013, upon consideration of Defendants' Motion to Dismiss (Doc. No. 16), Plaintiff's Response in Opposition (Doc. No. 22), Defendants' Reply (Doc. No. 24), arguments of counsel at the March 13, 2012 hearing, Plaintiff's Supplemental Memorandum in Opposition (Doc. No. 28), Defendant's Reply (Doc. No. 31), Defendants' Notice of Supplemental Authority in Support of Motion to Dismiss (Doc. No. 32), and Plaintiff's Response (Doc. No. 33), it is **ORDERED** as follows:

1. Defendants' Motion to Dismiss (Doc. No. 16) is **GRANTED in part and DENIED in part.**
2. The following Counts are **DISMISSED WITH PREJUDICE**:
  - Count I — FDCPA, 15 U.S.C. § 1692e(2) and § 1692f(1), for charging the property inspection fees
  - Count II — FDCPA, 15 U.S.C. § 1692e, for improper Pennsylvania pre-foreclosure notices

- Count III — Fair Credit Extension Uniformity Act, 73 Pa. Cons. Stat. § 2270.1 et seq., for FDCPA violations
- Count IV — Pennsylvania Loan Interest and Protection Law, 41 Pa. Cons. Stat. § 101 et seq., for charging the property inspection fees
- Count V — Unjust enrichment

3. The following Counts will remain open in the Amended Complaint:

- Count VI — Real Estate Settlement Procedures Act, 12 U.S.C. § 2605(e), for insufficient responses to mortgage loan information requests
- Count VII — Fair Credit Reporting Act, 15 U.S.C. § 1681s-2(b), for providing negative reports to credit bureaus
- Count VIII — 15 U.S.C. § 1692c(a)(2), c(c), d(5), for continually contacting Plaintiff after knowing he was represented by an attorney

4. Defendants shall file an Answer to the Amended Complaint within twenty (20) days of the date of this Order.

BY THE COURT:



JOEL H. SLOMSKY, J.